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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/713,643	11/15/2000	John E. Gavlik	P04762	3643

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EXAMINER

PATEL, ASHOKKUMAR B

ART UNIT PAPER NUMBER

2154

DATE MAILED: 01/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Applicati n No.

09/713,643

Applicant(s)

GAVLIK ET AL.

Examiner

Ashok B. Patel

Art Unit

2154

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 November 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: \_\_\_\_\_.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

  
JOHN FOLLANSBEE  
ADVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100

Continuation of 5. does NOT place the application in condition for allowance because:

Applicant's arguments filed July 06, 2004 have been fully considered but they are not persuasive for the following reasons:

a. Before responding to Applicant's arguments the Examiner would like to first of all, point to the office action specifically describing the microcontroller capabilities by stating "microcontroller which is capable of...." that are taught by the reference Cooper. These capabilities are of the important relevancy to the elements of the claim 1, 9 and 17 as stated in the office action. The reference Cooper's teachings regarding the multitasking control program (firmware instructions, task initialization and service routines) is not explicitly taught as claimed, that is exactly what is stated in the office action by stating "Although, Cooper teaches, the first memory includes microcontroller firmware instructions, task initialization and service routines, it fails to explicitly teach multitasking control program comprising a main routine and a plurality of subroutines callable by the main routine, and a routine of first memory calling a subroutine an upon encountering a decision point that is not yet capable of being decided, updates the vector with the address of decision point associated with the subroutine and transferring the program execution control back to the main routine.", that necessitates the explicit teachings of the reference Johnson as stated in the office action by being motivated as stated by the reference Cooper which is also stated in the office action.

b. In response to Applicant's arguments "The Office Action cites column 7, line 10 through column 8, line 28 of Johnson as disclosing these elements of Claim 1. However, this portion of Johnson contains absolutely no mention of a "first subroutine" that is "callable by [a] main routine" and that "transfers program execution control back to (the) main routine" after encountering a "decision point" in the subroutine that cannot be decided as recited in Claim 1", the teachings of the reference Johnson that considered are, as stated in the office action, "The reference Johnson teaches the process (main routine) comprising of a collection of procedures (a plurality of subroutines), each performing some subtask of the process. The reference goes on teaching that the process for the needed data can call these procedures where the data is exchanged via stack (memory data structure) (col.4, lines 60-68 and col.5, lines 1-24). The reference also teaches that the procedure can be placed into dormant state (a decision point that is not yet capable of being decided) and the status message of the procedure is updated (updating the vector of the subroutine) and then the process can resume another procedure by calling and transitioning to execution state. After the completion of another procedure, the process can come back to the dormant procedure to continue the execution from where it left the procedure. (col. 7, lines 10-68 and col.8, lines 1-28, Figs. 4 and 5)." These are the teachings of the reference Johnson are of a paramount importance and are gleaned for its implementation on Cooper's Microcontroller, which has no relevancy to whether the "process (main routine) comprising of a collection of procedures" is executed on one processor or multiple processors. which is being argued by the applicant by stating "The Office Action cannot simply assert that there is no relevancy" as to whether the processes of Johnson are executed on one processor or multiple processors." (office Action, Page 4, First paragraph). The burden is on the Patent Office to establish that a person skilled in the art would be motivated to modify Cooper with Johnson. The entire purpose of Johnson is to execute program using multiple processors. The Office Action fails to cite any motivation as to why a person skilled in the art would use the system of Johnson on the single processor of Cooper. Because the whole purpose of Johnson is to execute a process using multiple processors."

c. The same is true that Johnson lacks the teachings of Cooper, i.e. Microcontroller and its capabilities, and as such by following Cooper's suggestion "where the status of the subroutines is updated periodically for coming back to check it's progress of execution because if one subroutine fails to terminate the microcontroller becomes incapable of executing any further instructions", as stated in the office action, one having ordinary skill will combine the teachings of the references.

d. In response to Applicant's arguments that the references Johnson fails to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "This portion of Johnson simply recites that the subject process executes and returns its results to the home process. This portion of Johnson contains absolutely no mention that the subject process may fail to execute completely and transfer control back to the home process before execution of the subject process is complete. ") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The claims 1, 9 and 17 fail to define how and why the first subroutine fails to execute completely and what is the failures relationship to transferring the control back to main routine.